

SELECTMEN'S MEETING MINUTES

October 04, 2011

Members Present: Larry Harrington, Chairman
James J. DeVellis, Vice Chairman
Mark Sullivan, Clerk
Lorraine Brue
Lynda Walsh

Others Present: Kevin Paicos, Town Manager

The meeting was brought to order at 7:00 p.m. by Larry Harrington, Chairman.

Larry Harrington notified the public that the By-Law pertaining to public intoxication has been "struck down" by the Attorney General's Office. He has received a letter to that affect; it is public information and anyone wanting to read the letter is welcome to do so. He said the Attorney General's office called him as well to express their appreciation for the argument put forth by the Town and that they understand the safety and security issues; however, the law is black and white and just from the title of the By-Law it is against the law to do what the title states. Larry Harrington explained that the representative made two points very clear – 1) the information submitted by the Town Clerk was correct; it was not wrong as was reported and 2) rumors that the Kraft Organization or the New England Patriots tried to influence a decision is totally untrue.

7:00 – Citizens Input – Dick Heydecker, 63 Grove Street, said that issues he brought forward in a meeting on March 29, 2011 have never been addressed. These issues are base wages vs. overtime for substitute police officers. He said he was told at that meeting these issues would be brought up later; that has not happened. In his opinion this "business of an overtime spreadsheet is ludicrous". He said it is a waste of time. He went on to discuss the number of overtime hours worked by policemen and the number of hours that are dedicated to detail work and the consistency of overtime hours worked. He is concerned about public safety. Dick gave an illustration of a situation when the staffing might be down one officer and the safety issues that could occur as a result. He is not recommending that the Town needs seven new men but he feels there is a definite need to have full discussion about this issue.

7:05 – Meals Tax Use Policy – Kevin Paicos pointed out that during discussions on the Meals Tax at the time of adoption the revenue was to be primarily used to fund OPEB and road repair. No discussion was held about other specific things such as Capital expenditures, building repairs, etc. Kevin referred to a memo submitted from Gordon Greene at the 5/24/11 BOS meeting in which Gordon

suggested developing a policy that meals tax receipts be used only for the following purposes – roadway improvements, unfunded pension liabilities and future municipal building projects. Kevin Paicos said that keeping in mind those thoughts as well as other comments made earlier, he tried to put together a draft policy of what he felt was the intent of how the meals tax revenue would be used. If this is approved by the Board, it would constitute a directive on how to prepare the budget. He pointed out that this could address other capital expenses as long as they are consistent with being a one-time expense. He said the Board might like to have flexibility to utilize some of the funds from the meals tax. He added that the meals tax revenue would not be used for operating expenses.

A general discussion ensued. Mark Sullivan said he thought the Board had all ready voted on this issue and that the revenue from the meals tax were going to be for OPEB and roads and nothing else. He doesn't see why the Board would go against what was told to the voters and that this policy could be reviewed at the end of the year. Jim DeVellis said he generally agreed with Mark's comments that this revenue would go towards road repairs and OPEB. He said he hoped that some department budgets would not be reduced to mitigate other uses. He would not like to see the DPW budget reduced. In reviewing the policy prepared by Kevin, Jim DeVellis suggested putting a period after the word "repair" in section 2.1 and the wording at the end of the sentence should be deleted. Lorraine Brue suggested instead of wording of "not less than \$750,000", wording should reflect an amount to be determined based upon historical income. She asked why a number would be put in the policy if the amount is unknown at this time. Lorraine noted that according to Advisory Committee discussion \$300,000 would be for OPEB and to utilize any remaining funds for non operating expenses. That would allow for use of revenue from meals tax to be used for major capital items. She said it is important to be flexible as to the use of the revenue in terms of other things that might come up. Lynda Walsh said she wants to make it clear that the revenue is going to be used to fund OPEB and roads; that is what the people voted on. Kevin Paicos explained that the \$750,000 meals tax revenue was an estimate given by the State and emphasized that it is only an estimate.

Larry Harrington then asked whether there was a consensus on putting the period after the word "repair" in Section 2.1. Lorraine Brue said she would like to see wording that would allow some flexibility in terms of major capital expenses so that this Board or a future Board could, working with Town Manager and Finance Director, make those decisions. Larry asked for consensus on striking paragraph 2.2 and 2.4 and adding a sentence that this could be reviewed annually. Kevin Paicos noted that the annual required contribution to OPEB is close to \$1.5M an amount almost triple what the Town has. He pointed out that the whole amount could be put towards the OPEB liability but he does not feel this would be a good idea. Larry Harrington said he agreed with Lynda, Jim and Mark that the meals tax revenue should be put towards OPEB and road repairs

only. Kevin Paicos advised against taking a vote on this policy at this time; he would make the suggested changes and bring a revised policy to the Board at a later meeting.

7:20 – Special Town Meeting Warrant – Larry Harrington explained the discussion on the Warrant would be to approve Warrant articles and set a date.

Article 1 – Budget Adjustments – Kevin Paicos pointed out that this Article addresses five different budget adjustments. Item #1 is to adjust the salary for the Intern, Tim Cummings. He said he is putting together a proposal to change the position from Intern to Special Projects Manager; the proposal would be forthcoming. Kevin explained this would be a part time position and for one year and would be revisited when looking for a new Intern.

Kevin explained Tim now works 19 hours per week and the salary would remain the same \$19.00 per hour. He said some of the money would be apportioned for tuition reimbursement and the remainder salary. Kevin did not have that breakdown but roughly \$9 for education expense and the remainder salary. The time frame on this is from 12/31/2011 to 6/30/2012. Jim DeVellis pointed out that the direction given for budget preparation is no new hires and this seems to be almost becoming an assistant manager working towards tuition reimbursement. He added that if this is the case, it should be made clear to the voters. Larry Harrington questioned if the Town is going to help pay for a master's degree for an employee who is going off to work for someone else who would get all the benefits. Kevin Paicos pointed out that the Town is going to realize three to four times the investment. He also explained how this would be funded by debt interest not taxes.

Item #2 – This is an adjustment in the same salaries budget as Item #1. Kevin Paicos said it is an incentive program whereby the Town can make a cash award for ideas submitted by an employee that save money for the Town or creates new revenue. The amount of the award would be 5% of the savings realized but not to exceed \$1,000. The budget adjustment is for \$10,000. Kevin Paicos said it was an oversight on his part that it was not included in the budget. Jim DeVellis pointed out that the Town of Mansfield has a similar program that is open to any civic minded person who submits ideas. He said this could be problematic in that it would pay an employee for getting paid “on top of what the employee should be doing.” He said this could be offensive to some people.

Item #3 – Bob Cutler came before the Board to explain why and how the many Town by-laws, policies, rules and regulations could be amassed into one codified record book. It would be something similar to the State and Federal system. He pointed out that at present there is no system or practical way to access these rules, regulations and by-laws. He said codification would do that and would be systematically updated with any changes. The budget adjustment

is for \$15,000 but would not do the entire project which would be done in approximately three years.

Item #4 – Kevin Paicos said this is a budget line adjustment of \$14,646 for the BOH to be taken from salaries and put into expenses for contractual services.

Item #5 – Kevin Paicos explained that this budget adjustment pertains to the paving of Mill Street. The funding for that had to be taken out of the DPW budget although it had not been originally included. In order to replace that amount in the DPW budget, the funding would be taken from meals tax revenue.

Article 2 – This Article is to fund the Highway Labor Contract.

Article 3 – Town Hall Plans – Larry Harrington gave a brief overview of the status of this project. He said one issue is the financing plan and whether or not the Town really had a plan. The recommendation is to tear down the existing building and build new; the question raised is whether to go forward with design plans. He pointed out if the Town cannot afford a new building why should \$500,000 be spent for plans. Larry Harrington said the finance plan being considered consists of a number of pieces including the sale of Town owned land and money that could be left from savings on the High School project, the sale of land as well as other revenue sources. He would like to see the Board agree to the concept but recognize that a different financing plan that satisfies the Board has to be brought forward or the Board could vote “no action”. Kevin Paicos would like to have the Board include this article for now as a place holder. Jim DeVellis said he sees no issue with putting this off until the Annual Town Meeting or at least until there is more time to consider spending this much money on plans that could possibly sit on the shelf for two or three years. He feels it is too early to ask the citizens to vote on this. He pointed out that this is going to be decided at Town Meeting not on a Ballot and that could mean the question could be decided by only 100+ people rather than possible the 1,000 people who would vote on a ballot question. He is against moving forward with this before finding an acceptable way to pay for it. Larry Harrington said the Town is being asked to consider \$8M and the Town has come forward with financing of approximately \$4M. He feels that is enough to take to the citizens to see if they would be willing to support the Town to fund the difference, explaining that number is not exact, it could go up or down. It was noted that it would be nice to be able to go to the voters with a more accurate cost figure and a design of what it would look like.

Jim DeVellis pointed out that the Town has spent \$45,000 on a study that made a very detailed comparison of costs on whether to renovate or to build new. He feels that would be sufficient to take to the voters. He noted that to move ahead with design plans that might stay on the shelf two or three years and then that designer goes out of business due to the bad economy, the money spent is wasted. Kevin Paicos said there is a 50/50 chance that the financial plan would come together within the next six weeks and working with the School

Committee they could identify a number within a range. He said if the Board feels the finance plan is flawed then it could just be moved to the ATM in May. Jim DeVellis said he is not against the project but there are a “lot of if’s” and what would the cost to the Town be to put this off until the ATM in May. Kevin Paicos pointed out that it would save about six months. Kevin Paicos pointed out that if a financial plan can be pulled together in the next six weeks and the Board approves it, it could then be presented at the STM and that would save six months time on the project; if he cannot give the Board reasonable assurance prior to the meeting then the Board could take no action. Jim DeVellis expressed concern that with all the moving parts of the finance plan, it is not worth taking the risk for a few extra months. Mark Sullivan is concerned about going to Town Meeting asking for \$4M without knowing how it would be paid for – he would vote “no action”.

Article 4 – Wage/Classification Study – Kevin Paicos noted that the amount to be raised is at this time unknown. A brief discussion was held.

Article 5 – Kevin Paicos explained that this article is to establish a permanent easement on Boyden Library property to access abutting property at 8 Baker Street. This easement has been in place a long time but there has never been a permanent record.

Article 6 – General By-Law changes – Signs – Kevin Paicos explained that this article is necessary to be able to lawfully award an RFP for the billboards on Route 1, either regular billboards or electronic.

Article 7 – Amend Zoning By-Laws – Ground Mounted Solar Photovoltaic Installation – Kevin Paicos said this change concerns the installation of solar panels on the land fill. He pointed out that it is too early to tell what the revenue would be; according to information he has it appears to be substantial.

Article 8 – General By-Law changes – Fire Dept. Fee Changes – Kevin Paicos explained that this article would allow the Fire Chief to set permit inspection fees without have to go to Town Meeting to do so. This is in keeping with other departments.

Article 9 – Home Rule Special Act – Kevin Paicos explained that this Article asks the Town to vote to petition the General Court for a special act under Home Rule that would change wording in the Town Manager Act to give authority to the Conservation Commission, rather than the Town Manager, control over conservation land.

Article 10 – Home Rule Petition – Public Endangerment Act – Kevin Paicos said this would be included only if the Board wants to have it on the Warrant.

Motion by Mark Sullivan to approve all the Warrant Articles 1 through 8 as submitted by the Town Manager. Seconded by Lorraine Brue.

Jim DeVellis asked for more discussion on the Town Hall article. He feels that four weeks to come up with a satisfactory financial plan is not enough time to bring this to the voters given the information the Board has and the money all ready spent. He would not support Article 3.

Vote: 4-1-0 Jim DeVellis voted in the negative. Chairman Harrington asked Jim if he wanted to clarify his vote. Mark Sullivan withdrew his motion.

Motion by Mark Sullivan to approve Articles 1, 2, 4, 5, 6, 7 & 8 as submitted by the Town Manager. Seconded by Lorraine Brue.

Vote: 5-0-0

Motion suggested by Kevin Paicos and made by Larry Harrington to insert Article 3 in the Warrant with the understanding of a commitment made on financing and if that commitment on financing is unfulfilled the article would be pulled at Special Town Meeting. Seconded with discussion by Mark Sullivan.

Mark Sullivan said he would like to hear ideas on financing; the article is to propose \$4M, are there any different numbers. Randy Scollins, Finance Director, said it has already been stated there are two key pieces in flux, the remaining funding for the High School project and revenue realized on the sale of Town owned property.

A brief discussion was held regarding the next election date and whether or not the Town could put a ballot question regarding the Town Hall at that time. Bob Cutler said the next election date is a Presidential primary election on March 6, 2012. It was noted that the State would have to approve. Kevin Paicos pointed out that the only things that can be submitted for a ballot vote is an override or a nonbinding question. Larry Harrington said the voters of the Town need to be allowed to make the decision of whether they want to spend \$8M on the Town Hall. Kevin Paicos reminded the Board that Article 3 is to vote to appropriate \$500,000 for the design plans. He explained that if there is an override vote, there cannot be a ballot question on a contingent basis. He said all that is "very tricky" and he went on to explain the number of articles that would have to be approved before anything could be accomplished. He felt it would be very confusing to the point that the voters not having any idea of what they would be voting on.

Larry Harrington used an example of why he feels this article should go to the voters as a ballot question. He pointed out that it would give the voters the opportunity to say "yes" or "no" on the Town Hall issue. Lynda Walsh said this is not ready to be put on the Warrant at this time as there is not enough time for the Advisory Committee to examine a financial plan with so many variables. She said there needs to be time enough for everybody to make an educated decision.

Mark Sullivan said he would give “good faith” on this. He said he has all the answers he needs and that the design review would last for a couple years. He pointed out that it would be a lot cheaper to get this started now. He would agree to have this put on the Warrant. Lorraine Brue would support putting this on the Warrant. She said the Town is committed to not having a debt exclusion for the Town Hall but to work within budgeted debt service; this is being sensitive to the tax payers. She pointed out that either way the same amount of money would be spent and she is not trying to imply that one way would cost the taxpayer more than the other. She feels there is enough done to come forward with this in a way that makes sense. She said the Board is committed to building new not renovating. Larry Harrington said he would like the voters to be allowed to make the decision on \$8M.

Bob Cutler, Town Clerk, said he does not usually weigh in on discussions of the Board but to wait on this it would just become more expensive. He also pointed out that the Town cannot vote on something and link it to a future Town Meeting not spending the money and having it on a referendum in March. He said it would be better to decide not to spend the money. Lorraine Brue said she wanted to make it clear there needs to be a finance plan that does not make the taxes go up; if that cannot be done then the answer has to be “No”. She pointed out that the intent of the finance plan as presented was to not put anything on the backs of the tax payers and this could be achieved within the budget debt service and other sources. She would like to see what Kevin and Randy can come up with. Lorraine said nothing that has been proposed in this article that has not been done before; they are not trying to “pull a fast one” absolutely not; there is all ready within the budget provision to continue to fund capital items, nothing new has been done.

Larry Harrington said what he was hearing was that there is \$4M currently within the operating budget that would become free within a few years and for the next twenty years use that for funding a new building. He pointed out that those funds could be used to lower the tax bills or some other way to spend the money. He wants the voters to understand how monies are freed up and they should have the right to decide whether or not it could be used to lower taxes or other things or to use it for the Town Hall project. He said it all comes down to the same numbers.

The Town Manager said he had hoped the Board would endorse this project – it has to happen. He again pointed out that the finance plan is 50/50 chance of coming together in six weeks. He said the six months is important. He would like to be given a chance to bring this forward with a satisfactory financial plan. He would not bring this back unless the plan is reasonably solid.

Larry Harrington pointed out that there is a motion on the table to insert Article 3 in the Warrant for the Special Town Meeting with the understanding that if there is no satisfactory financial plan in place the Article would be pulled.

Vote: 3-2-0 In favor Mark Sullivan, Larry Harrington, Lorraine Brue.
Opposed Jim DeVellis and Lynda Walsh.

Mark Sullivan asked for further discussion. Kevin Paicos said he is responsible to have a financial plan that meets the needs of the five members of the Board or the Article would be pulled.

Discussion of Action Item #2 (Out of Order) – Support of Bill HB1972 – Bob Cutler explained that Woburn City Clerk, William C. Campbell, is seeking support for a bill to ensure that the votes of troops serving overseas will count on election day and save taxpayers \$8,000,000 by streamlining the elections.

Motion by Lynda Walsh to support the Resolution for Bill H1972 as requested by Woburn City Clerk William C. Campbell. Seconded by Lorraine Brue. **Vote: 5-0-0**

Motion by Lynda Walsh to add to the STW an article to amend wording in the Town Manager Act, Section 4(B)(21) by inserting after the words “library trustees” the words “Conservation Commission” as submitted. Seconded by Jim DeVellis.

Discussion – Lorraine Brue said she is not in favor of this Article. She pointed out that the Conservation Commission has no history of issues with the Town Manager, aside from the Dog Park issue. Her position is “if it is not broken, don’t fix it.” **Vote: 4-1-0** Opposed – Lorraine Brue

Motion by Lorraine Brue to close the Warrant for the Special Town Meeting. Seconded by Mark Sullivan. **Vote: 5-0-0**

8:20 – Town Manager Review – Chairman Larry Harrington that, in keeping with transparency, he would read to the public the document prepared from the performance assessments made by BOS members on Town Manager, Kevin Paicos’s annual review. This report reflects meeting, sometimes exceeding, the expectations of the Board as well as areas that need improvement. Larry pointed out that this is the first time the Town Manager’s performance review has been done at an open meeting. See attached document.

Kevin Paicos thanked the BOS for this review. He spent a great deal of time with each Board member individually and he knows each member spent a lot of time working on this review. He commended Larry Harrington for the “synthesizing” the comments from all the Board members into one cohesive report. He said it is not easy to conduct this review in open meeting but the process has yielded outstanding results. There are two areas that he would like to see resolved – 1) He would like to have the Board consider what pay adjustment, if any, is to be made and 2) To develop a new set of goals and objectives including all projects going on. This would allow him to understand

what the expectations of the Board are. He pointed out that developing an annual strategic plan is the most important thing. He looks forward to working on goals and objectives. He appreciates the input from the Board. He said he sincerely is dedicated to try to do better; that is his commitment to the Town. He said he still loves his job and the people he works with.

Motion by Lorraine Brue to accept the positive evaluation as submitted.
Seconded by Lynda Walsh. **Vote: 5-0-0**

ACTION:

Minutes: The Minutes for the meetings of September 13 and September 22, 2011 were reviewed.

Motion by Lynda Walsh to approve the Minutes of September 13, 2011 as submitted. Seconded by Lorraine Brue. **Vote: 5-0-0**

Motion by Lynda Walsh to approve the Minutes of September 22, 2011 as submitted. Seconded by Lorraine Brue. **Vote: 5-0-0**

Support for Bill H1972 – Addressed earlier in meeting. Approved support for Bill H1972. **Vote: 5-0-0**

Committee Appointment – Received a request from David Bachrach to be appointed to the Foxborough Cultural Council for a one year term.

Motion by Mark Sullivan to approve the request for appointment to Foxborough Cultural Council for a one year term as submitted by David Bachrach. Seconded by Lorraine Brue. **Vote: 5-0-0**

Audit Committee Appointment – Received two requests to one membership on the Audit Committee with a term expiring on 7/1/2014 – Gary Whitehouse and George Leonard.

A brief discussion was held. The Chairman asked each candidate to give a brief overview of their experience and/or qualifications.

Motion by Mark Sullivan to appoint Gary Whitehouse to the Audit Committee for a three year term ending 7/1/2014. Seconded by Lorraine Brue.

Vote: 4-1-0 Jim DeVellis said he would have voted for George Leonard. He felt George's background as a Public Accountant made a good fit.

Appointment to Veteran Services Advisory Committee – Received from Michael C. Johns, Director Foxborough Veterans Services a request to appoint David L. Sherlock, 25 Mirimichi Rd. to the Veteran Services Advisory Committee.

Motion by Mark Sullivan to appoint David L. Sherlock, 25 Mirimichi Rd. to the Veteran Services Advisory Committee as requested by Michael C. Johns, Director. Seconded by Lynda Walsh. **Vote: 5-0-0**

Reclassification Appointment – Received from Robert E. Hicks, Chairman, Foxborough Historical Commission a request for reclassification of Paul Godin to a voting member of the Commission for a three year term, keeping his Honorary Life Member status.

Motion by Lorraine Brue to approve the reclassification of Paul Godin to a voting member of the Historical Commission as requested by Robert E. Hicks, Chairman. Seconded by Lynda Walsh. **Vote: 5-0-0**

Gift to Animal Control – Received from Sue Thibedeau a request to accept a gift to the Animal Control Gift Account in the amount of \$550.00 from Felines of Foxborough.

Motion by Lynda Walsh to accept with gratitude the gift from Felines of Foxborough the gift of \$550.00 to be deposited in the Animal Control Gift account. Seconded by Lorraine Brue. **Vote: 5-0-0**

Application for Transfer of License – Received from Global Companies LLC an Application for License for Ownership Transfer and License for storage of flammable & combustible liquids, solids and gasses at 123 Central Street. A brief discussion was held.

Motion by Mark Sullivan to approve the application for License for Ownership Transfer and License for storage of flammable & combustible liquids, solids and gasses at 123 Central Street as submitted by Global Companies LLC. Seconded by Lorraine Brue. **Vote: 5-0-0**

Pole Location Petition – Received from Herman Yopez, National Grid, a petition covering National Grid pole locations, pole #946-84.

Motion by Mark Sullivan to approve the petition as submitted by National Grid to install stub pole 946-84. Seconded by Lorraine Brue. **Vote: 5-0-0**

Tootsie Roll Drive – Received from Ed Butler, Knights of Columbus a request for permission to hold a Tootsie Roll Drive on October 8, 2011.

Motion by Mark Sullivan to approve the request to hold a Tootsie Roll Drive on October 8, 2011 as requested by Ed Butler, Knights of Columbus. Seconded by Jim DeVellis. **Vote: 5-0-0**

NEW/OLD BUSINESS

Kevin Paicos said a copy of the revised Liquor License application form had been sent out to all Liquor License holders for comments. Lorraine Brue pointed out that a meeting discussing this is scheduled for October 19, 2011.

Mark Sullivan asked for information regarding the inquiry on sending out an R.F.P. for Town Council. Larry Harrington said this would be on an upcoming agenda.

Lynda Walsh asked for an update on the contract for trash collection. Kevin Paicos said he had put a committee together to work on that and it looks like there could be substantial savings in that area. The committee is also looking at regionalizing those services. He would put that on the agenda for discussion with the Board. Mark Sullivan commented on this issue. He gave Kudos to the company the Town is currently using. He said they do an excellent job and he would not even think of replacing them. He asked who is on the committee.

Kevin Paicos said he would give the Board updates on the H.R. and DPW directors and any other contracts that might be coming up.

Motion by Jim DeVellis to go into Executive Session to discuss labor negotiations – Fire and Library and to exit from Executive Session for the sole purpose of adjournment. Seconded by Lynda Walsh.

Vote: 5-0-0	Larry Harrington, Chairman	Yes
	James DeVellis, Vice Chairman	Yes
	Mark Sullivan, Clerk	Yes
	Lorraine Brue	Yes
	Lynda Walsh	Yes

Motion by Jim DeVellis to adjourn. Seconded by Mark Sullivan.

Vote: 5-0-0 Meeting adjourned at 9:45 p.m.

Mark Sullivan, Clerk